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Beach Living Trust dated January 22, 1999*

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In re:  
  
ANTHONY THOMAS and WENDI THOMAS

- ☒ Affects AT EMERALD, LLC  
☐ Affects all Debtors

Case No.: BK-N-14-50333-btb  
Chapter: 11

[Lead Case – Jointly Administered]

Case No.: BK-N-14-50331-btb  
Chapter: 11

**DECLARATION OF JOHN BEACH  
IN SUPPORT OF MOTION TO  
APPOINT CHAPTER 11 TRUSTEE**

**Hearing Date: August 22, 2014**

**Hearing Time: 2:00 p.m.**

I, **JOHN BEACH**, do hereby declare:

1. I am the trustee of the Beach Living Trust dated January 22, 1999 (the “Beach Trust”).
2. I make this declaration in support of the *Motion to Appoint Chapter 11 Trustee* (the “Motion”).
3. On or about January 17, 2013, Debtor AT Emerald, LLC (“Debtor”) executed that certain Promissory Note Secured by Pledge and Security Agreement (the “Note”) whereby Debtor promised to pay to the Beach Trust the original principal sum of \$500,000.00, together with all accrued interest, fees, and costs due thereunder.
4. In order to secure the repayment of the Note, Debtor executed a Pledge and

Security Agreement (the “Security Agreement”) wherein the Debtor granted to the Beach Trust a security interest in that certain 23 kilogram black schist stone including a green crystal beryl (natural emerald) of approximately 22,500 carats, which stone is commonly known as the “Thomas Emerald.”

5. The Beach Trust filed its UCC-1 Financing Statement with the Nevada Secretary of State as Document Number 2014003009-2 on February 4, 2014.

6. The original maturity date of the Note was January 17, 2014.

7. Debtor defaulted under the terms of the Note by failing to pay the amounts due at maturity.

8. Debtor has not made any payments on the Note.

9. I understand that the Thomas Emerald is currently held at the Sarasota Vault, 640 South Washington Blvd., Suite 125, Sarasota, Florida, 34236 (“Sarasota Vault”).

10. On March 4, 2014, I understand that Debtor filed its voluntary chapter 11 petition herein (the “Petition Date”).

11. As of the Petition Date, the amount due under the terms of the Note was in excess of \$535,000.00.

12. Debtor has not made any post-petition payment to the Beach Trust.

13. I sought authority to conduct a FRBP 2004 to examine the person most knowledgeable of the Sarasota Vault, including access to and inspection of the Thomas Emerald. *See* Dkt. 93.

14. On August 8, 2014, I received a text from Mr. Thomas containing an attached letter from “David C. Clarke” of the “Koyo Shipping and Trading Corporation” (“Koyo”) indicating that if the Beach Trust inspects the Thomas Emerald as planned, Koyo would either withdraw from closing the alleged sale or re-inspect the Thomas Emerald. A true and correct copy of the August 8, 2014 letter is attached to the Motion as **Exhibit 2** and incorporated herein by reference.

15. Prior to receiving the August 8, 2014 letter, I received a series of text messages

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1 from Anthony Thomas ("Thomas") wherein Thomas advocated for the Beach Trust to call off its  
2 planned inspection of the Thomas Emerald:

3 a. "John you said you weren't going to do anything to interfere with the sale  
4 of the Emerald I told you we are in contract and the buyer doesn't want you or anyone else to  
5 view the Emerald because he's already approved it for the purchase. The buyer said he would  
6 back out of the sale agreement if anybody interfered with the sale my attorneys are going to  
7 opposed you view the Emerald today 10am o'clock."

8 b. "The emerald is sold and I'm waiting for confirmation, when they will  
9 wire the funds. I don't see your point in going to Florida."

10 16. I have no information about a date upon which the alleged sale of the Thomas  
11 Emerald will actually close and the purchase funds will be delivered to the Debtor.

12 17. I question Thomas' credibility regarding the proposed liquidation of the Thomas  
13 Emerald, and I lack confidence in Debtor's current management.

14 18. I ask that this Court appoint a neutral trustee to manage the affairs of the Debtor.  
15 EXECUTED this 13th day of August, 2014.

16  
17 /s/ John Beach  
18 JOHN BEACH  
19 Trustee of the Beach Living Trust dated January 22, 1999  
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